

Department of State

§ 7.12

§ 7.7 Passport cases.

(a) *Scope of review.* With respect to appeals taken from decisions of the Assistant Secretary for Consular Affairs denying, revoking, restricting, or invalidating a passport under §§ 51.70 and 51.71 of this chapter, the Board's review, except as provided in paragraph (b) of this section, shall be limited to the record on which the Assistant Secretary's decision was based.

(b) *Admissibility of evidence.* The Board shall not receive or consider evidence or testimony not presented at the hearing held under §§ 51.81–51.89 of this chapter unless it is satisfied that such evidence or testimony was not available or could not have been discovered by the exercise of reasonable diligence prior to such hearing.

[44 FR 68825, Nov. 30, 1979, as amended at 53 FR 39589, Oct. 11, 1988]

§ 7.8 South African Fair Labor Standards cases.

(a) *Scope of review.* With respect to appeals taken from decisions of the Assistant Secretary for African Affairs denying assistance to U.S. nationals operating in South Africa which do not comply with the Fair Labor Standards outlined in § 61.2 of the chapter, the Board's review except as provided in paragraph (b) of this section shall be limited to the record on which the Assistant Secretary's decision was based.

(b) *Admissibility of evidence.* The Board shall not receive or consider evidence or testimony not presented pursuant to § 63.3(a) or § 63.3(b) of this chapter unless it is satisfied that such evidence was not available or could not have been discovered by the exercise of reasonable diligence prior to entry of the decision of the Assistant Secretary for African Affairs.

[51 FR 15319, Apr. 23, 1986, as amended at 52 FR 41560, Oct. 29, 1987; 53 FR 39589, Oct. 11, 1988]

§ 7.9 Decisions.

The Board shall decide the appeal on the basis of the record of the proceedings. The decision shall be by majority vote in writing and shall include findings of fact and conclusions of law on which it is based. The decision of the Board shall be final, subject to

§§ 7.2(b) and 7.10. Copies of the Board's decision shall be forwarded promptly to the parties.

[56 FR 55457, Oct. 28, 1991]

§ 7.10 Motion for reconsideration.

The Board may entertain a motion for reconsideration of a Board's decision, if filed by either party. The motion shall state with particularity the grounds for the motion, including any facts or points of law which the filing party claims the Board has overlooked or misapprehended, and shall be filed within 30 days from the date of receipt of a copy of the decision of the Board by the party filing the motion. Oral argument on the motion shall not be permitted. However, the party in opposition to the motion will be given opportunity to file a memorandum in opposition to the motion within 30 days of the date the Board forwards a copy of the motion to the party in opposition. If the motion to reconsider is granted, the Board shall review the record, and, upon such further reconsideration, shall affirm, modify, or reverse the original decision of the Board in the case.

[44 FR 68825, Nov. 30, 1979. Redesignated at 51 FR 15319, Apr. 23, 1986]

§ 7.11 Computation of time.

In computing the period of time for taking any action under this part, the day of the act, event, or notice from which the specified period of time begins to run shall not be included. The last day of the period shall be included, unless it falls on a Saturday, Sunday, or a legal holiday, in which event the period shall extend to the end of the next day which is not a Saturday, Sunday, or a legal holiday. The Board for good cause shown may in its discretion enlarge the time prescribed by this part for the taking of any action.

[44 FR 68825, Nov. 30, 1979. Redesignated at 51 FR 15319, Apr. 23, 1986]

§ 7.12 Attorneys.

(a) Attorneys at law who are admitted to practice in any State of the United States, the District of Columbia, or any Territory or possession of the United States, and who are members of the Bar in good standing, may

practice before the Board unless disqualified under paragraph (b) of this section or for some other valid reason.

(b) No attorney shall be permitted to appear before the Board as attorney representing an appellant if he or she is subject to the conflict of interest provisions of chapter 11 of title 18 of the United States Code.

[44 FR 68825, Nov. 30, 1979. Redesignated at 51 FR 15319, Apr. 23, 1986]

PART 8—ADVISORY COMMITTEE MANAGEMENT

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AUTHORITY: 22 U.S.C. 2658; sec. 8(a) Federal Advisory Committee Act (Pub. L. 92-463); E.O. 11769; and OMB Circular A-63, Rev.

SOURCE: 40 FR 28606, July 8, 1975, unless otherwise noted.

§ 8.1 Authorities.

(a) *Regulatory authorities.* (1) These regulations are issued to implement the Federal Advisory Committee Act, Pub. L. 92-463, which became effective January 5, 1973, and Office of Management and Budget Circular No. A-63 of March 27, 1974. These regulations also are in accordance with Executive Order 11769 of February 21, 1974, and the responsibilities of the Secretary of State under 22 U.S.C. 2656.

(2) These regulations apply to any advisory committee which provides advice to the Department of State or any officer of the Department. However, to the extent that an advisory committee is subject to particular statutory provisions, which are inconsistent with the Federal Advisory Committee Act, these regulations do not apply.

(b) *Delegated authority.* (1) The Deputy Under Secretary for Management has been designated by the Secretary

(Delegation of Authority No. 125 signed November 7, 1972) to have full responsibility for the Committee Management function.

(2) The Advisory Committee Management Officer in the Management Systems Staff administers the Committee Management Program for the Deputy Under Secretary for Management.

§ 8.2 Policy.

(a) Advisory Committees are to be used for obtaining advice and recommendations on matters for which they were established, and may be utilized only when the information sought is not otherwise efficiently and economically available.

(b) Unless provided otherwise by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions and any decision taken pursuant to the advice or recommendation of an advisory committee is the responsibility of the appropriate Department officer. For the purposes of this provision, "Presidential directive" includes an executive order or executive memorandum.

(c) Meetings of advisory committees will be open to the public unless there is a compelling reason which requires nondisclosure of the subject matter in accordance with public law (5 U.S.C. 552 (b)).

§ 8.3 Scope.

(a) The Federal Advisory Committee Act applies to committees "established" by the Government and to committees "utilized" though not established by the Government.

(1) The President and the Congress, or the Department in consultation with the Office of Management and Budget, may *establish* a group which shall be known as an advisory committee for the purpose of obtaining advice or recommendations and which shall be subject to the Federal Advisory Committee Act throughout its existence.

(2) Though not established by the President or the Department, a group *utilized* for the purpose of obtaining advice or recommendations must file a charter prior to a meeting, and otherwise conform to the requirements of